

Teamsters Union Local No. 287, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO¹ (Emery Air Freight/Airborne Express) and David Haas. Cases 32-CB-3434 and 32-CB-3463

August 20, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
CRACRAFT AND OVIATT

On April 24, 1991, Administrative Law Judge Jay R. Pollack issued the attached decision. The General Counsel filed an exception and a supporting brief, and the Respondent filed cross-exceptions and a supporting brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,² and conclusions as modified³ and to adopt the recommended Order as modified.⁴

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, Teamsters Union Local No. 287, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, San Jose, California, its offi-

¹November 1, 1987, the Teamsters International Union was readmitted to the AFL-CIO. Accordingly, the caption has been amended to reflect that change.

²The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enf'd, 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

We note that in par. 4 of his analysis, the judge inadvertently cited *NLRB v. Iron Workers Local 433*, 598 F.2d 1154 (9th Cir. 1979). The correct cite is *NLRB v. Iron Workers Local 433*, 600 F.2d 770 (9th Cir. 1979), cert. denied 445 U.S. 915 (1980).

The Respondent filed a cross-exception to the judge's finding that Haas registered on the out-of-work list at the Respondent's exclusive hiring hall on March 30, 1990, 4 days before he was placed on withdrawal status. The record indicates that Haas registered on March 20, 1990. This error would not affect the outcome of the case.

³In Conclusion of Law 4, the judge incorrectly described the Respondent's conduct in causing the employers using the exclusive hiring hall to refuse to hire Haas as a violation of Sec. 8(b)(1)(B), rather than Sec. 8(b)(2).

⁴The General Counsel filed an exception to the judge's failure to include a provisional remedy that in the event the Respondent continues to discriminate against David Haas and prevents him from running as a candidate in the December 1991 election, a rerun election shall be conducted. We reject the General Counsel's exception as premature as it essentially seeks to remedy a violation that has not yet occurred. The judge's recommended Order, with the addition of an expunction remedy, sufficiently remedies the unfair labor practices found in this case.

cers, agents, and representatives, shall take the action set forth in the Order as modified.

1. Insert the following as paragraph 2(c) and reletter the subsequent paragraphs.

“(c) Remove from its records any reference to the unlawful placement of David Haas on withdrawal from union membership and notify him in writing that this has been done and that unlawfully placing him on withdrawal will not be used against him in any way.”

2. Substitute the attached notice for that of the administrative law judge.

APPENDIX

**NOTICE TO EMPLOYEES AND MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

- To organize
- To form, join, or assist any union
- To bargain collectively through representatives of their own choice
- To act together for other mutual aid or protection
- To choose not to engage in any of these protected concerted activities.

WE WILL NOT place you on withdrawal or otherwise discipline you because you have engaged in internal union politics.

WE WILL NOT threaten you with reprisals because you have filed charges with the NLRB.

WE WILL NOT cause or attempt to cause any employer to refuse to hire or employ you because you engaged in internal union politics.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL make whole David Haas for any loss he may have suffered by reason of the discriminatory refusal to allow him to use the hiring hall, with interest.

WE WILL on tender by David Haas of payment of all dues owing retroactive to April 1990, offer him immediate and full reinstatement to membership in Local 287, without prejudice to any rights, privileges, and benefits to which he may have been entitled.

WE WILL remove from our records any reference to our unlawful placement of David Haas on withdrawal from union membership and notify him in writing that

this has been done and that the withdrawal will not be used against him in any way.

TEAMSTERS UNION LOCAL NO. 287,
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WARE-
HOUSEMEN AND HELPERS OF AMERICA,
AFL-CIO

Valerie Hardy-Mahoney, Esq., for the General Counsel.
David A. Rosenfeld, Esq. (Van Bourg, Weinberg, Roger &
Rosenfeld), of San Francisco, California, for the Respondent.

DECISION

STATEMENT OF THE CASE

JAY R. POLLACK, Administrative Law Judge. I heard this consolidated case in trial at San Jose, California, on January 23, 1991. On April 26, 1990, David Haas filed the charge in Case 32-CB-3434 alleging that Teamsters Union Local No. 287 (Respondent or the Union) committed certain violations of Section 8(b)(1)(A) of the National Labor Relations Act (the Act). Haas filed an original and amended charge in Case 32-CB-3463 on May 25 and June 26, respectively. On May 30, 1990, the Regional Director for Region 32 of the National Labor Relations Board issued a complaint and notice of hearing against Respondent, in Case 32-CB-3434, alleging that the Union violated Section 8(b)(1)(A) of the Act by refusing to let Haas register at its hiring hall and by refusing to restore Haas to full membership in the Union. Thereafter, on June 29, 1990, a complaint was issued in Case 32-CB-3463 further alleging that Respondent violated Section 8(b)(1)(A) of the Act by threatening Haas with reprisals for having filed charges with the Board. Respondent filed timely answers to the complaints, denying all wrongdoing.

The parties have been afforded full opportunity to appear, to introduce relevant evidence, to examine and cross-examine witnesses, and to file briefs. On the entire record, from my observation of the demeanor of the witnesses, and having considered the posthearing briefs of the parties, I make the following

FINDINGS OF FACT AND CONCLUSIONS

I. JURISDICTION

The complaints allege jurisdiction based on the operations of Airborne Freight Corporation d/b/a Airborne Express and Emery Air Freight Corporation d/b/a Emery Worldwide. The complaint alleges that both Airborne Express and Emery Worldwide are engaged in the business of air freight forwarding. Respondent denies these allegations and contends that these employers are carriers subject to the Railway Labor Act.

Under Section 2(2) of the Act, the term employer does not include any person subject to the Railway Labor Act. In determining whether to assert jurisdiction, the Board will defer to decisions of the National Mediation Board. See, e.g., *Elliott Flying Service*, 260 NLRB 485 (1982); *DHL Corp.*, 260 NLRB 17 (1982); *Beckett Aviation Corp.*, 254 NLRB 88 (1981). The National Mediation Board has determined that

air freight forwarders are not subject to the Railway Labor Act. See *Teamsters Local 295 (Emery Air Freight Corp.)*, 255 NLRB 1091 (1981).

In the *Teamsters Local 295* case, the Board asserted jurisdiction over Emery, finding that the company used charter airlines and regularly scheduled commercial flights but did not itself operate any aircraft or employ any pilots, flight engineers, or airline maintenance personnel. The Board concluded that there was insufficient connection between the company's employees and the transportation function to warrant a finding that the company was covered by the Railway Labor Act. Accordingly, the Board found that Emery was an employer engaged in commerce within the meaning of the Act. Thereafter, the Board has asserted jurisdiction over Emery in two other cases cited by the General Counsel. See *Emery Air Freight*, 267 NLRB 1014 (1983); and *Teamsters Local 705 (Emery Air Freight)*, 278 NLRB 1303 (1986) (jurisdiction was admitted and, therefore, not an issue in either of these cases).

In the instant case, there is no evidence concerning the operations of Airborne. With respect to Emery, there is only evidence that Emery employees pick up and deliver packages at the Oakland and San Jose International Airports. There is no evidence concerning the operation of the aircraft. Based on the prior cases asserting jurisdiction over Emery, I draw the inference that Emery still does not operate any aircraft or employ any pilots, flight engineers, or airline maintenance personnel. I find that the General Counsel has met the burden of proof with respect to jurisdiction. The burden shifts to Respondent to show that the operations of Emery have changed or that Emery is an air carrier. Respondent has not offered any evidence to overcome the presumption that the Board will continue to assert jurisdiction over the operations of Emery. Accordingly, I find that Emery is engaged in commerce within the meaning of Section 2(6) and (7) of the Act. Since Respondent operates an exclusive hiring hall used by Emery and other employers, it will effectuate the purposes of the Act to assert jurisdiction.

Respondent admits and I find that at all times material Respondent has been a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. The Facts

David Haas became a member of Respondent Union in 1971. Haas served as a business agent from 1982 through 1988. In December 1988, Haas ran for the position of secretary-treasurer, the chief executive officer of the Union. He won the election and was sworn in as secretary-treasurer in January 1989. However, the election was challenged by Mario Gullo, the former secretary-treasurer and Haas' opponent. The election was set aside and a rerun election was held in September 1989. Gullo won the rerun election and Haas appealed the results of the election. However, Gullo's victory was upheld by the Department of Labor in January 1990.

The instant case involves actions taken against Haas by Gullo and Ralph Rodriguez-Berriz, Respondent's president, in the spring of 1990. General Counsel contends that Respondent, through Gullo and Rodriguez-Berriz, violated Section 8(b)(1)(A) of the Act by: issuing Haas a withdrawal card

and refusing to accept his dues payment; telling Haas that his protest of such action could not be heard and that he could not attend union meetings because he had filed charges with the Board; and failing to allow Haas to sign up at Respondent's hiring hall.

The enmity between Haas and Gullo is admitted by Respondent. During 1989, Haas filed internal union charges against Gullo and Gullo filed internal charges against Haas. There have also been lawsuits and countersuits. The animosity between Haas on one side and Gullo and Rodriguez-Berriz on the other, permeated the courtroom. None of these three could apparently control their dislike for their opponent even during a formal hearing. There is no need to go into the charges and counter charges that have passed between the two sides.¹ It is clear that because of intraunion politics, Haas hates Gullo and Rodriguez-Berriz and the two union officials feel likewise about him.

After Haas was defeated in the September 1989 rerun election, he signed up on the out-of-work list at Respondent's exclusive hiring hall. Haas also paid his union dues through April 1990. In late November 1989, Haas was unable to work because of an injury and received disability payments. On March 30, 1990, Haas again registered on the out-of-work list for casual employment. Haas reported to the hiring hall on a daily basis but was not dispatched to any employer. However, this lack of work was not due to any wrongdoing by the Union. Rather, Haas would report to the hiring hall after the jobs were dispatched. The dispatcher would remove Haas' name as a "no show." The Union had no practice or procedure for disciplining employees who did not show up for a job call. The employees simply were removed from the out-of-work list. Haas would sign up again for work after he had been removed as a no show.

On April 5, Haas went to the hiring hall to register for work but was not permitted to do so by the dispatcher. The dispatcher, Paul Cormier, told Haas that Haas had been given a withdrawal card by Gullo and that Gullo instructed Cormier not to permit Haas to register for work. Haas wrote Gullo a letter protesting the issuance of the withdrawal card and asking that the withdrawal be rescinded. Haas further demanded that Gullo permit him to sign the out-of-work lists.

On April 11, Haas attempted to pay his union dues for May. The office worker would not accept the dues. Rodriguez-Berriz then spoke to Haas and told Haas that he was on withdrawal and therefore could not pay dues. Haas said the withdrawal had been issued in error and that he was entitled to pay his dues and work out of the hiring hall. Rodriguez-Berriz answered that Haas had to have a Class I driver's license and a department of transportation (DOT) medical card to register for work. Haas said those requirements applied to new members and not himself. However, Haas showed Rodriguez-Berriz both the required documents. Rodriguez-Berriz then asked to make copies of the documents. Haas refused to allow copies to be made. Rodriguez-Berriz pleaded with Haas to allow him to make copies but Haas steadfastly refused. Rodriguez-Berriz then threatened that Haas could not sign up without giving him a copy of the documents. Haas still refused to allow the Union to have a copy of the documents. Haas was not permitted to sign the

out-of-work lists and was not permitted to pay his union dues.

On April 13, Haas wrote Gullo stating that he had met all requirements to be reinstated and requested that he be reinstated. Haas enclosed a check for 6 months' dues and his withdrawal card with the letter. On April 16, Gullo responded to Haas' letter and inquired about Haas' disability and work record. Gullo also questioned whether Haas had a Class I license and a DOT card. On April 18, Haas wrote Gullo and stated that he had already shown Rodriguez-Berriz all the necessary documentation. Haas supplied answers to the questions concerning his disability and work record. On May 5, Haas again attempted to pay his union dues and return the withdrawal card. The dues and card were not accepted.

Haas was not allowed to sign the out-of-work list until May 16.² On May 13, Haas attempted to attend the Union's executive board meeting to argue against the involuntary withdrawal card. Rodriguez-Berriz asked Haas if he had filed charges with the Board. When Haas answered affirmatively, Rodriguez-Berriz responded that Respondent was not going to hear his case. Rodriguez-Berriz stated that the trouble with Haas was that Haas had run off to the National Labor Relations Board without ever using his internal remedies. Rodriguez-Berriz again stated that Haas was on withdrawal and could not pay dues or attend meetings.

On June 11, Haas attempted to attend a general membership meeting of the Union. Rodriguez-Berriz refused to allow Haas to attend the meeting on the ground that Haas was on withdrawal. Haas stated that the withdrawal was being contested and that he had paid his dues. Rodriguez-Berriz said the dues payment was not valid because Haas was on withdrawal. Rodriguez-Berriz repeated that Haas had gone to the Board before he had exhausted his internal remedies and, therefore, could not attend the meeting.

In order to be eligible to run in the upcoming union election set for December 1991, candidates must be members in good standing for 24 consecutive months prior to nomination. Thus, Haas' involuntary withdrawal from membership prevents his nomination in the next election.

Gullo testified that he issued Haas a withdrawal card, usually reserved for out-of-work members who wish to be relieved from their dues obligation, based on a conversation with an unnamed attorney from the Union's parent organization. According to Gullo, some unnamed employees complained that Haas was not working and only taking up space in the hiring hall. I do not credit this testimony. Haas had only been registered 4 days when Gullo sought to take action against him. Haas had not taken any work from the hall and, therefore, had not adversely affected any other employee.

Gullo testified that he was informed that since Haas was unemployed for 6 months he could be given a withdrawal card. According to Gullo he was only following this union rule. However, Gullo admitted that an employee on disability was not unemployed within the meaning of the union rule. Further, Gullo made no investigation to determine if any other union member was subject to the 6-month rule. The only other time an involuntary withdrawal was given was

¹ See *Teamsters Local 287 (Consolidated Freightways)*, 300 NLRB 539 (1990), in which the Board found that the Haas political faction had discriminated against a Gullo supporter in the operation of the hiring hall.

² The complaint alleges that Respondent did not permit Haas to register for work from April 2 until May 16, 1990.

also to Haas in 1975 when Haas left the State of California.³ Gullo testified that Haas could again become a member if he went to work in the industry. However, Gullo never informed Haas of this fact. Further, by refusing to permit Haas to use the hiring hall, Gullo made it impossible for Haas to work in the industry.

Rodriguez-Berriz testified that he wanted to copy Haas' Class I license and DOT card so that he had proof that Haas had met the requirements for registering at the hiring hall. However, he admitted that he did not require copies of documents from other employees until sometime later when such copies became a uniform requirement. Rodriguez-Berriz admitted that he wanted the proof in case Gullo wanted justification for allowing Haas to register. No explanation for why Gullo would need copies from Haas, but no other employee, was given. No explanation is really necessary. Gullo's animus against Haas explains the action taken against Haas and explains Rodriguez-Berriz' desire to have proof to show Gullo that Haas had the proper documentation.

Analysis and Conclusions

Section 8(b)(1)(A) of the Act provides that it shall be an unfair labor practice for a labor organization "to restrain or coerce . . . employees in the exercise of the rights guaranteed in Section 7 of the Act." The proviso to Section 8(b)(1)(A) states that the Section "shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein." Section 8(b)(2) makes it an unfair labor practice for a union:

to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a)(3) of this section or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

In *Scofield v. NLRB*, 394 U.S. 423, 430 (1969), the Supreme Court stated that Section 8(b)(1)(A) leaves a union free to enforce "a properly adopted rule," provided that the rule (1) "reflects a legitimate union interest," (2) "impairs no policy Congress has imbedded in the labor laws," and (3) "is reasonably enforced against union members who are free to leave the union and escape the rule."

In *Carpenters Local 22 (Graziano Construction Co.)*, 195 NLRB 1 (1972), the Board held that the provision that a union's discipline "impair no policy Congress has imbedded in the labor laws" included not only the NLRA but all Federal policies. Thus the Board held union discipline cannot interfere with the rights of a union member guaranteed by the Labor-Management Reporting and Disclosure Act, "to participate fully and freely in the internal affairs of his own union."

It is well settled that a union cannot discriminate against a hiring hall applicant because of his internal union activities. *Laborers Local 383 (Arizona Building Chapter, AGC)*, 266 NLRB 934, 937 (1983). It is also well settled that a union may not deviate from its regular hiring hall procedures in a

manner which denies employment opportunities to applicants without inherently encouraging union membership and thus violating the Act. *NLRB v. Iron Workers Local 433*, 598 F.2d 1154 (9th Cir. 1979); *Electrical Workers Local 592 (United Engineers & Construction Co.)*, 223 NLRB 899, 901 (1976).

In *Longshoremen (ILA) Local 1408 (Jacksonville Maritime Assn.) v. NLRB*, 705 F.2d 1549 (11th Cir. 1983), the court enforced the Board's order finding that Local 1408 violated Section 8(b)(1)(A) and (2) by refusing to refer a member until he apologized publicly to the union's president whom the member had verbally attacked. The court rejected the union's defense of customary internal policy to protect the hiring hall. The court held that the keystone of violations involving hiring halls "rests on the principle that the union cannot use the employer as a surrogate in enforcing its internal affairs." *Id.* at 1552. The court found that the natural foreseeable consequences of the union's decision was to compel the employee to accept the authority of union officials. Thus, the court held that the union's requirement of a public apology did not fall within 8(b)(2)'s exception for enforcing payment of union dues.

Applying the above principles to the facts of this case, it is clear that Respondent through Gullo unlawfully removed Haas from the out-of-work list at its exclusive hiring hall. Haas had been properly registered on the out-of-work list but had not yet received a dispatch, when Gullo ordered that his name be removed. Gullo's explanation for his actions has been discredited. Haas had not taken any jobs from any other employee and there was no reason for any employee to complain. Gullo could not remember the name of any employee who complained nor could he cite any reason why an employee would complain. In any event, Haas showed the union's president the required documents. However, Haas was still not permitted to register.

Contemporaneously, with his removal from the out-of-work list, Haas was given an involuntary withdrawal from the Union. Gullo's reason for the withdrawal does not ring true. Gullo did not even mention the name of the union official who recommended that he could take such action. More important, Gullo and the Union did not attempt to enforce the rule against any other employee. Under the Union's own definition, Haas would not have fit under the rule because he had been on disability and, therefore, was not unemployed.

I do not believe that Gullo enforced the union rule in good faith. Rather, I believe he sought to punish his political opponent. Gullo did not even attempt to investigate whether Haas or any other employee fit under the rule. Even after Gullo learned that Haas had been disabled and therefore not unemployed, Gullo continued with the involuntary withdrawal. Similarly, even after learning that Haas had the two required documents, Gullo continued to prohibit him from using the hiring hall until May 16.

Under the circumstances of this case, I draw the inference that Gullo sought to discipline Haas and place him on withdrawal because of the hostility generated by the internal union politics. Due to the past election and ensuing lawsuits, Gullo sought retaliation against Haas and sought to prohibit Haas from entering the next election as a candidate for office. Haas' activities in opposing Gullo and running for office are protected from union discipline under *Scofield*.

³ In 1976, Haas was able to obtain reinstatement simply by paying dues.

I reject Respondent's defense that it was merely enforcing its rules. No other employee was required to present copies of his license or department of transportation card. Respondent made no investigation as to whether any other member was out of work for 6 months. Gullo's testimony on these points is not credible and his demeanor on the stand did not aid his case. Respondent had knowledge of Haas' internal union activities and strong animus against him for such activities. I draw the inference that the action taken against Haas was motivated by Gullo's animus towards him. I further find that the failure of Respondent to give a credible reason for its discipline of Haas supports an inference that the motive is an unlawful one which the Respondent wishes to conceal. See *Shattuck Denn Mining Corp. v. NLRB*, 362 F.2d 466, 470 (9th Cir. 1966); *Abbey's Transportation Services*, 284 NLRB 698 (1987); *First National Bank of Pueblo*, 240 NLRB 184 (1979).

Further, I find that the statements of Rodriguez-Berriz to Haas that the trouble with Haas was that he had filed charges with the Board without exhausting his internal union remedies independently violated Section 8(b)(1)(A) of the Act. I find no merit to the argument that Rodriguez-Berriz was simply stating a deferral policy. Rather, I find that under the circumstances of this case, Rodriguez-Berriz' remarks implied that there would be no favorable action on Haas' attempts to obtain union membership because Haas had filed charges with the Board.

CONCLUSIONS OF LAW

1. Emery Air Freight is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.
2. Respondent, Teamsters Union Local No. 287, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.
3. Respondent violated Section 8(b)(1)(A) of the Act by placing David Haas on withdrawal, removing him from its out-of-work list from April 5 until May 16, 1990, and threatening him with reprisals because Haas had engaged in internal union politics and had filed charges with the Board.
4. Respondent violated Section 8(b)(1)(B) by removing Haas' name from its out-of-work list at its exclusive hiring hall and thereby causing the employers using the exclusive hall to refuse to hire Haas.
5. Respondent's acts and conduct above constitute unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent engaged in unfair labor practices, I recommend that Respondent be ordered to cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. Respondent should be ordered to accept Haas' payment of dues and reinstate him to full membership, retroactive to April 1990. Further, Respondent should be ordered to make Haas whole for any loss of earnings he may have suffered by reason of the refusal to allow him to use the exclusive hiring hall from April 5 to May 16, 1990. As Haas was seeking work only as a casual employee, any job he would have been referred to has ended. Therefore, reinstatement is not applicable.

Backpay shall be computed on a quarterly basis, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest computed in accordance with *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁴

ORDER

The Respondent, Teamsters Union Local No. 287, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, San Jose, California, its officers, agents, and representatives, shall

1. Cease and desist from
 - (a) Placing members on withdrawal or otherwise disciplining members because they have engaged in internal union politics.
 - (b) Threatening employees with reprisals because they have filed charges with the NLRB.
 - (c) Causing or attempting to cause any employer to refuse to hire or employ employees because those employees engaged in internal union politics.
 - (d) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) Make whole David Haas for any loss he may have suffered by reason of the discriminatory refusal to allow him to use the hiring hall, in the manner set forth in the remedy section of this decision.
 - (b) Preserve and, on request, make available to the Board or its agents for examination and copying, all hiring hall records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.
 - (c) On tender by David Haas of payment of all dues owing retroactive to April 1990, offer him immediate and full reinstatement to membership in Local 287, without prejudice to any rights, privileges, and benefits to which he may have been entitled as of the date of his unlawful involuntary withdrawal of membership.
 - (d) Post at its hiring hall, meeting rooms, and offices in San Jose, California, copies of the attached notice marked "Appendix."⁵ Copies of the notice, on forms provided by the Regional Director for Region 32, after being signed by a responsible representative of Respondent, shall be posted for a period of 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material.
 - (e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

⁴ All motions inconsistent with this recommended Order are hereby denied. If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

⁵ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."